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AUG 2 0 2010

Ref: 8EPR-N

Kim Martin
Uinta National Forest
88 West 100 North
Provo, UT 84601

Re: Uinta National Forest Oil and Gas Leasing
Draft Supplemental Environmental Impact Statement
CEQ # 20100233

Dear Mr. Martin:

The U.S. Environmental Protection Agency (EPA) Region 8 has reviewed the Draft Supplemental Environmental Impact Statement (DSEIS) for oil and gas leasing on the Uinta National Forest (UNF) prepared by the U.S. Department of Agriculture Forest Service (Forest Service). Our comments are provided for your consideration pursuant to our responsibilities and authority under Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. Section 4332(2)(C), and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609. It is EPA's responsibility to provide an independent review and evaluation of the potential environmental impacts of this project, which includes a rating of the environmental impact of the proposed action and the adequacy of the NEPA document.

In accordance with our policies and procedures for reviews under NEPA and Section 309 of the Clean Air Act, EPA has rated this DSEIS as "Environmental Concerns - Insufficient Information" (EC-2). Our primary environmental concerns include potential impacts to surface water and groundwater quality as well as air quality. Additional information is needed to ensure that environmental effects are properly evaluated in accordance with NEPA. This specifically includes a broader assessment of potential impacts that may be associated with oil and gas development within the UNF. EPA's concerns with the content of and potential environmental impacts described in the DSEIS include additional concerns described in this letter and the enclosed Detailed Comments. A copy of EPA's rating criteria is attached.

PROJECT BACKGROUND

The UNF Oil and Gas Leasing DSEIS addresses issues and potential environmental impacts associated with oil and gas leasing on the UNF. The decisions to be made by the Forest Service through the NEPA analysis include which lands will be available for oil and gas leasing and under what conditions the Bureau of Land Management (BLM) will be authorized to offer

specific lands for lease. A Draft Environmental Impact Statement (EIS) for UNF oil and gas leasing was previously released in February 2008 (EPA responded with a comment letter on May 28, 2008). However, based on comments received on the Draft EIS, the Forest Service has substantially revised the document, including the addition of a fourth alternative. The DSEIS replaces the previous Draft EIS in its entirety.

Four alternatives are analyzed in the DSEIS. Alternative 1 (No Action Alternative) does not authorize any additional leasing. 207,280 acres of UNF lands will continue to be available, based on the 1997 Western Uinta Basin (WUB) Record of Decision. Alternative 2 (Proposed Action) designates a total of 736,660 acres available for leasing, including areas already leased under the WUB decision. Recommended wilderness areas (totaling 9,880 acres) would not be available for leasing under this alternative. Alternative 3 would authorize leasing on 224,590 acres. 521,350 acres (including recommended wilderness and undeveloped areas) would not be available for leasing under Alternative 3. Additional lease stipulations for resource protection are also included in this alternative. Alternative 4 (Preferred Alternative) authorizes leasing on the same portions of the UNF as Alternative 2. However, many of the additional lease stipulations from Alternative 3 are incorporated. No Surface Occupancy (NSO) stipulations are included in Alternative 4 for Drinking Water Source Protection Zones (DWSPZs), inventoried roadless areas (IRAs), all wetlands and riparian areas, and within 0.5 mile of sage grouse leks. The Reasonably Foreseeable Development Scenario (RFDS) predicts 12 exploratory wells within the UNF in the next 15 years, with one well moving to production.

EPA CONCERNS

An explanation of our primary concerns with the project is contained in the following comments. Our primary concerns include: water resource protection, air quality, the development scenario analyzed in the DSEIS, and the selection of the preferred alternative. Further details on these issues, as well as additional detailed concerns pertaining to the project, are found in the enclosed Detailed Comments.

Protection of Water Resources

The protection of groundwater and surface waters are key issues to address in oil and gas leasing and development. The fact that most water in the lease area is fully appropriated makes it particularly important to protect the resource, since there is no easily available alternate water supply.

EPA appreciates the consideration of DWSPZs and Sole Source Aquifers in the analysis, and considers this a significant step forward toward ensuring the safety of drinking water resources in the UNF. Protection of essential drinking water resources using the NSO leasing stipulation is also to be commended. However, EPA continues to have several concerns with the proposed project with regard to protection of groundwater resources. The EIS should also consider the potential for downhole impacts to groundwater resources, which may not be fully protected by the NSO stipulation. For example, potential impacts from drilling fluids and inter

formational groundwater movement should be considered.

Further characterization of the existing quality of groundwater resources present in the project area is critical to understanding the potential for impact, as is monitoring to ensure prevention of future impact. Although a map showing the location of the Ground Water Protection Zones and Source Water Protection Zones is provided in the EIS, additional detail characterizing freshwater resources is needed and should be provided in the Final EIS. Surface water in the project area is currently not supporting or only partially supporting its designated uses due to exceedances of standards for sediment, phosphorous, and dissolved oxygen. EPA therefore considers impacts to surface water from sediment runoff as a concern for potential oil and gas development within the UNF.

Air Quality

EPA appreciates that a quantitative screening-level dispersion modeling analysis was performed for the UNG leasing decision, as part of the updates added to the DSEIS. We have noted in a previous letter to the Forest Service, however, that we believe the Air Quality Modeling Report (AQMR) should have been made available to the public in conjunction with the release of the DSEIS for public review (Letter to Mr. Brian Ferebee, August 4, 2010). The AQMR results should be more completely summarized in the Final EIS, particularly if the Forest Service elects not to allow for public review of this document. Furthermore, while we are pleased that quantitative modeling has been performed, EPA does not agree with statement in DSEIS that "the context intensity of the potential environmental effects of oil and gas operations on ambient air quality do not require qualitative descriptions… because the air quality impact modeling results discussed in this section are quantitative" (pg. 4-218). As explained in greater detail below, we regard the entire UNF as prospective for oil and gas development, and therefore believe that impacts to all resources from potential oil and gas production within the leased acreage should be generally discussed. For air quality, potential impacts include criteria pollutants, Hazardous Air Pollutants (HAPs), and Air Quality Related Values (AQRVs). Ozone and HAPs in particular should be addressed in qualitative terms, since they have not been modeled for the proposed action.

Additionally, the Final EIS should provide a general conformity evaluation for the project's direct and indirect emissions of the relevant criteria pollutants and their precursors within the Utah County particulate matter ($PM_{10}/PM_{2.5}$) Non-Attainment Area and the Salt Lake City ozone Maintenance Area. The general conformity applicability and, if necessary, conformity determination analysis should be provided in the Final EIS. Due to the location within the non-attainment and maintenance areas, we additionally recommend that appropriate control measures to address emissions of particulate matter and of $PM_{2.5}$ and ozone precursors from oil and gas activities be discussed in the Final EIS. We recommend that the Forest Service consider ways in which these measures could be required through the leasing process.

RFDS and Environmental Impact Analysis

The RFDS developed for the UNF leasing decision is 12 exploratory wells over a period of 15 years, with one well going to production. While EPA does not dispute the Forest Service's assessment of mineral potential in the UNF, we believe that all of the UNF is geologically prospective for oil and gas production. Our full assessment regarding the potential for oil and gas development in the UNF is provided in the enclosed detailed comments. In summary, the geology appears to be very complex and some areas, particularly the eastern portion of the UNF are considered more prospective than the Reasonably Foreseeable Oil and Gas Development Groups (RFOGDs) to the West.

As EPA considers the entire UNF as prospective for oil and gas production, we believe that basing the EIS analysis on disturbance associated with only 12 wells may lead to an anomalously low estimation of potential impact. Because a decision is being made to open up extensive lands to oil and gas leasing within the UNF, the EIS should fully consider possible impacts associated with a range of potential development levels in addition to analyzing the impacts associated with the estimated number of wells. Therefore, we recommend that the Environmental Consequences discussion in the Final EIS be revised to place increased emphasis on general impacts associated with potential oil and gas development. The document should make clear the distinction between the impact analysis performed for the 12 predicted wells and the possible impacts associated with more substantial oil and gas development in the Final EIS. Any conclusions drawn that potential impacts would be "negligible" or "minimal" based on the small surface disturbance associated with the 12 wells should be removed from the Final EIS, or clearly identified as applying to those 12 wells only, not to the potential for future development on lands leased within the forest. As disclosed in the DSEIS, future NEPA analysis will be required for any exploration or development beyond the 12 wells analyzed in this document.

Preferred Alternative

EPA is pleased with the additional resource protection lease stipulations that have been included in Alternative 4, the Preferred Alternative for the proposed leasing decision. However, we are uncertain as to why Alternative 4 has been selected as the Preferred Alternative over Alternative 3. Most of the area to be leased under Alternative 4 will have the stipulation of NSO, including IRAs and the DWSPZs. The utility of opening up many acres of forest to leasing with NSO, when the technology to produce oil and gas without surface occupancy is limited, is unclear. EPA believes it may make more sense to have a No Leasing decision for those lands not reachable by current horizontal drilling technologies, which the DSEIS assumes can currently reach approximately one horizontal mile from the drilling site. If drilling technology for oil and gas production advances in the future, a subsequent leasing decision may be appropriate. Waiting until technology is available to access additional NSO acreage would allow the Forest Service to better identify impacts from this technology, which may include larger pad sizes or greater power requirements. Additionally, we note that Forest Service regulations provide for modifications, waivers, or exceptions to lease stipulations. Please clarify in the Final EIS whether modifying or waiving the NSO stipulations could occur in the future, or whether

exceptions to the stipulation exist, and the conditions that would allow for changes to the NSO stipulations in the Preferred Alternative.

Thank you for the opportunity to comment on this Draft Supplemental EIS. We hope that our comments will be of value to the Forest Service in preparing the Final EIS. We particularly look forward to the Forest Service's more complete consideration of the potential impacts to environmental resources in the UNF that may occur if oil and gas exploration is successful. If you have any questions on the comments provided in this letter, please contact me at 303-312-6004, or you may contact Molly Brodin of my staff at 303-312-6577.

Sincerely,

Larry Svoboda
Director, NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation

Enclosures: Detailed Comments
EPA's Rating System Criteria

EPA'S DETAILED COMMENTS FOR THE
UINTA NATIONAL FOREST OIL AND GAS LEASING DRAFT SUPPLEMENTAL EIS

RFDS

The areas within the UNF, particularly including but not limited to, the Current, Strawberry, Diamond Fork, and Spanish Fork Canyon Reasonably Foreseeable Oil and Gas Development Groups (RFOGDs) appear to be oil and gas prospective. According to the BLM Oil and Gas Parcels lease maps as of September 9, 2001, there has also been contract oil and gas leases northeast of the Payson RFOGD and southwest of the Diamond Fork RFOGD most notably in T9S-R3E plus leasing just South of the Vernon RFOGD. As of March 30, 2009, the Strawberry and Diamond Fork RFOGDs have had the vast majority of exploration activity; however, there has been no established commercial oil and gas production to date. There are oil and gas leases either authorized or pending within or just outside the four RFOGDs mentioned above within T3S-R12W, T7S-R6E, T7S-R5E, T4S-12W, T8S-R6E, T8S-R5E, T5S-R10W, T9 1/2S-R8E, T9S-R7E, T5S-R11W, T6S-R11W, T5S-R12W, T9S-R6E, T9S-R5E, a portion of T9S-R4E, and portions of T10S and Ranges 5E through 9E.

A majority of the prospective area lies on the West flank of the Uinta Basin, again, within the above mentioned four RFOGDs. Since this is generally an Uplift or Arch area, the geology of the area could be similar to the known productive portion of the Overthrust Belt located in Summit County of Northern Utah and Southwestern Wyoming. The Overthrust Belt dominates the structural geology of the entire UNF. These are complex structures with significant thrust faulting and folding. Reservoir formations that would contain oil and gas potential would be the sedimentary rocks of early Paleozoic era plus Triassic, Jurassic, Cretaceous, and Tertiary periods of the Mesozoic age. The Tertiary formations within the Uinta Basin just 20-25 miles to the East of the UNF are known oil and gas producing horizons particularly at the Bluebell-Altamont-Cedar Rim Field. Approximately 20-30 miles to the South and South-East of the Southern UNF are several Cretaceous Coal Bed Methane (CBM) and carbon dioxide (CO_2) fields located within Carbon and Emery counties. There is no known oil and gas production to the West of the UNF.

EPA appreciates that the RFDS was revised to include a discussion of the Arapien Valley, and to assess the impacts of one well going to production. However, based upon the above assessment, we recommend that the Final EIS treat the entire UNF as geologically prospective for oil and gas production, and fully consider the possibility that production beyond one well may occur on lands leased within the UNF.

Water Resources – Groundwater Source Protection

As disclosed in the DSEIS, both surface water and groundwater resources within the UNF serve as drinking water sources for nearby towns and cities. The UNF serves as a groundwater recharge zone, and the water in the proposed lease area is almost fully appropriated. The analysis of potential impacts in the EIS should address the potential for oil and gas development beyond the 12 wells predicted in the RFDS. Consequently, EPA recommends that

the Forest Service consider protecting drinking water supplies in the UNF with municipal watershed designations, if appropriate.

According to the DSEIS, groundwater in the UNF has not been well characterized. The Final EIS should provide a more detailed description of the groundwater resources, including: maps of aquifers in the area to be developed, recharge areas, mineral zones to be developed in relation to aquifers/aquitards, identification of fresh water aquifers, proximity of fresh water and production zones, depth to groundwater, aquifer thickness, identification of all water wells, etc. Further, EPA recommends the EIS clarify the expected water supply needed for drilling, well completion, and hydraulic fracturing, and how that may impact surface water and ground water. If any areas of CBM development are possible in the UNF, the CBM zones and fresh water zones/aquifers should be identified and fresh water areas removed from leasing.

EPA recommends the Final EIS include a map or overlay that clearly illustrates the areas of NSO and other stipulations for the Preferred Alternative. In the DSEIS, there appears to be an inconsistency between the maps in Figures 2.2 and 3.2., which makes identifying the NSO areas difficult. Also, there is no map showing the area with NSO based on DWSPZs for groundwater (Zones 1-4) and surface water (Zones 1 and 2). Figure 3.2 displays all surface water zones 1 – 4 as a single color, which is confusing for the reader as it does not clearly identify the NSO areas.

Again, EPA is very pleased with the Forest Service's proposal to require NSO to protect DWSPZs in the Preferred Alternative. The NSO lease stipulation relieves many concerns for water resource contamination from spills or surface impoundments. However, the Final EIS should also consider the potential for horizontal drilling to impact groundwater. Please disclose the potential impacts to groundwater from downhole activities, including hydraulic fracturing. EPA recommends baseline monitoring of the surface water and ground water resources before development. Current groundwater quality is necessary to establish a baseline condition on which to assess possible future impacts. This evaluation should include any evidence of hydrocarbon impacts. A monitoring plan should be ready before development that addresses monitoring of untreated private and public water supplies (for both surface water and groundwater).

Mitigation measures that will be required to protect surface and ground water zones should also be developed and required for all oil and gas activity in the UNF. These measures are particularly important for an area such as the UNF with valued drinking water sources. Some recommended mitigation measures to protect groundwater from below surface activities include:

1. Surface Casing Requirements (prevention of fluid movement into high quality aquifers)
    a. Surface casing must fully penetrate the aquifer or zone of high quality groundwater. Partially casing off fresh water zones is not protective of high quality aquifers as fluids and gas can eventually migrate to upper zones.
    b. Surface casing cement must be circulated to the surface.

2. Production casing should be installed and cemented to prevent fluid or gas migration behind the pipe.
3. Aquifers with high quality fresh water must be drilled using fresh water based drilling muds. In addition any mud additives must be low toxicity and compatible with the aquifer so as not to cause contaminant introduction into the fresh water zones.

The Utah BLM has issued an Instruction Memorandum No. UT 2010-055 (Protection of Ground Water Associated with Oil and Gas Leasing, Exploration and Development – Utah BLM). EPA recommends the Forest Service also consider the recommendations included in the BLM's Instructional Memorandum for EIS and Lease Notice language for groundwater protection.

Water Resources – Surface Water Quality

Impacts to surface water from sediment runoff are a potential concern for oil and gas development that may occur on the UNF. As identified in the DSEIS, surface water in the project area is already not supporting or only partially supporting its designated use due to exceedance of standards for sediment, phosphorous, and dissolved oxygen. While 12 wells will likely not result in enough surface disturbance to significantly impact water quality, additional development in the UNF is possible after the leasing decision has been made. Consequently, EPA does not agree with the statement in the DSEIS that impacts to water quality due to sediment loading would be "negligible due to the small size of surface disturbance." We recommend that the NEPA analysis not be restricted to the level of disturbance associated with the RFDS. Instead, the analysis should describe general types of impacts that could be expected, and anticipate the possibility of development beyond that currently predicted.

Total Maximum Daily Loads (TMDLs) to address sediment, phosphorous, and dissolved oxygen have been developed for Soldier Creek and Strawberry Reservoir. Oil and gas activities are likely to contribute to the sediment loadings in Soldier Creek, due to runoff from dirt roads and well pads. The TMDLs call for reductions in these nonpoint source loads to ensure attainment of the water quality standard in the watershed and apportions the available load to the sources that were identified at the time the document was prepared. If oil and gas development occurs on the UNF, it will constitute a new nonpoint source in a primarily road-less area and will result in exacerbation of the impairment. We request that the Forest Service expand the environmental consequences discussion for surface water quality to more fully explain how oil and gas exploration and development may contribute to sediment loadings in the UNF. If nutrients are naturally occurring within the soils, surface disturbance may also exacerbate impairments for phosphorous and dissolved oxygen.

EPA is pleased that the NSO stipulation in Source Water Protection Zones 1-2 will help to protect surface water quality in the Preferred Alternative, and also that best management practices (BMPs) will be applied during construction to limit erosion and sediment loading. These BMPs should be described in the Final EIS at a level of detail adequate for the reader to understand their utility. We recommend that the Forest Service also consider including any relevant BMPs for controlling erosion and sediment runoff from completed roads and well pads

during production. If significant development does occur within the Forest, EPA recommends the Forest Service implement a comprehensive water monitoring plan to ensure the BMPs are successfully mitigating the impacts from increased sedimentation. The Final EIS should also discuss the amount and quality of produced water anticipated from oil and gas activity on the UNF, and how this water will be discharged or stored. Water quality or geomorphology impacts are possible if a large volume of water is discharged.

Wetlands

EPA considers the protection, improvement, and restoration of wetlands and riparian areas to be a high priority. Wetlands increase landscape and species diversity, and are critical to the protection of designated water uses. According to the DSEIS, the National Wetlands Inventory (NWI) is incomplete and no other formal comprehensive wetland inventory has been completed on the UNF. UNF vegetation data, combined with what is completed for NWI, were used to determine wetland/riparian areas greater than 40 acres. Certain riparian areas are protected through the designation of Riparian Habitat Conservation Areas (RHCAs).

EPA understands that detailed analysis of potential impacts to wetlands cannot be performed until a specific location has been proposed for oil and gas activity. Any future NEPA analysis for exploration or development should clearly describe water bodies within the analysis area that may be impacted by development activities such as hydraulic fracturing, enhanced oil recovery, dust control, and other activities. This analysis should include both wetlands that are regulated under Section 404 of the Clean Water Act and wetlands that are determined to be non-jurisdictional and protected under Executive Order (EO) 11990 – Protection of Wetlands (May 24, 1977.

EPA is pleased that the Preferred Alternative includes a NSO stipulation to protect RHCAs (which include a 100-300 foot buffer along streams) and all wetlands/riparian areas. We recommend establishment of 100-foot buffer zones to avoid adverse impacts to all streams, wetlands, and riparian areas, not only those designated as RHCAs. Further, we note that NSO applies only to well pad construction, not to access roads. The Forest Service should minimize impacts associated with road development, particularly during crossing of drainages. We recommend that the Final EIS include a more detailed description of what is meant by the statement on page 4-136 that "road construction would be prohibited on 3,276 acres of riparian/wetlands areas greater than 40 acres… and on all other riparian/wetland areas," which may address EPA's concern. EPA is also pleased that BMPs and Soil and Water Conservation measures will be required of operators to minimize unavoidable impacts to wetlands and riparian areas. Although these measures and practices are detailed in the Forest Service Handbook 2509.22, the EIS should present a comprehensive list of measures and practices that will be required, at a level of detail adequate for the reader to understand their utility.

Air Quality

EPA appreciates that the Forest Service has provided us with the AQMR for review upon

request. However, the AQMR results should be more completely summarized in the Final EIS regardless of availability of the technical document. For example, section 3.10.1 of the DSEIS identifies three Federal Class I and six sensitive Federal Class II areas that could be impacted by the proposed action. However, visibility and deposition impacts to these areas are not reported in the DSEIS. Instead, the document states only that impacts "would not be expected to exceed Class II standards" (pg. 4-219, 4-220). Modeled criteria pollutant (NO_2, SO_2, and PM10) concentrations should also be reported in the Final EIS. The DSEIS reports collective emission impacts from predicted exploration activities in the UNF (pg. 4-224), but does not convey the predicted criteria pollutant concentrations reported in Tables 9.3-1 and 9.3-2 of the AQMR. With regard to the PM10 modeled impacts, we note that the surface disturbance acreages used in the air quality screening model appear to be smaller than those estimated in the DSEIS, and may lead to an underestimation of particulate matter impacts from fugitive dust. Finally, we note that the exploratory well development scenario modeled assumes up to seven exploratory wells. While it is unlikely that the full number of 12 exploratory wells predicted in the RFDS would be active simultaneously, and EPA agrees that seven is likely a conservative estimate, the Final EIS should make clear how many wells were modeled, and what the Forest Service's reasoning is for the selection.

Special Status Species

Due to increasing pressures on Greater Sage-grouse from energy development throughout the western U.S., EPA considers protection of important sage-grouse habitat to be a significant concern. The U.S. Fish and Wildlife Service (FWS) has pointed to habitat destruction and fragmentation occurring as a result of infrastructure related to energy projects and direct displacement by energy development as threats to sage-grouse. CEQ regulations require that the "environmental consequences" section of an EIS address "[p]ossible conflicts between the proposed action and the objectives of federal, regional, state, and local . . . land use plans, policies and controls for the area concerned" (40 C.F.R. § 1502.16(c)). Consistent with these requirements, the Final EIS should fully explore possible conflicts and inconsistencies between the proposed leasing decision and sage-grouse-related plans and policies. EPA is pleased to see that the Preferred Alternative includes additional protective lease stipulations for Greater Sage-grouse, including extended Timing Limitations in sage-grouse habitat and NSO within 0.5 mile of leks. We recommend that the Forest Service consult with FWS regarding additional mitigation measures that may be warranted for future project-specific NEPA documents, particularly considering the Candidate designation. We also recommend that the Final EIS fully explain the reasons for the selected lease stipulations, and the protection they are expected to provide to sage-grouse populations in the UNF.

Although a direct loss of a maximum of approximately 30 acres of lynx habitat is predicted from oil and gas development on leasable acres in the UNF, impacts to lynx could be more significant than this acreage suggests. As noted in the DSEIS, habitat fragmentation, winter road use, and enhanced accessibility for human recreational use could result in negative impact to lynx in the UNF. Further, it is possible that additional wells in lynx analysis units may be developed beyond what is currently predicted. EPA therefore considers loss of lynx habitat as

a concern worthy of further consideration in the Final EIS. We recommend the Forest Service consider whether additional protective measures are needed in lynx habitat, and provide justification for mitigation measures in the Final EIS. Further, the FWS Biological Assessment or Biological Opinion should be provided as an appendix to the Final EIS.

Jurisdiction and Tribal Consultation

In addition to the tribal trust lands mentioned on page 3-4 of the DSEIS, it appears that a portion of the UNF land proposed for leasing is located on National Forest lands within the Uintah Valley part of the Uintah and Ouray Indian (U&O) Reservation, and therefore in Indian country according to applicable Tenth Circuit precedent. *See Ute Indian Tribe v. Utah*, 773 F.2d 1087, 1090 (10th Cir. 1985) (en banc), *cert. denied*, 479 U.S. 994 (1986) ("We therefore conclude that the Uintah Reservation was not diminished by the withdrawal of the national forest lands."); *Ute Indian Tribe v. Utah*, 114 F.3d 1513, 1528 (10th Cir. 1997), *cert. denied*, 522 U.S. 1107 (1998) (affirming that U.S. Supreme Court had not altered 10th Circuit's prior holding as to the national forest lands). Accordingly, the EIS should accurately reflect that a portion of the area proposed for leasing is located on Indian country lands within the U&O Reservation, and should identify the appropriate permitting agencies consistent with Indian country status.

We are pleased that the Forest Service has already entered into consultation with the Ute Indian Tribe and the BIA regarding tribal issues for the proposed decision. Tribal consultation is particularly important for the proposed leasing decision, because traditional plant gathering is practiced within areas proposed for leasing. Continued access to the Forest and viability of the plant species are necessary to continue cultural traditions. Further consultation with the Ute Indian Tribe, particularly with regard to cultural resources, should occur in all future NEPA analyses for site-specific development actions proposed on the leasable lands.

Please also note that EPA directly implements most federal environmental programs, including the Clean Water Act (CWA), Clean Air Act (CAA), and Safe Drinking Water Act (SDWA), on Indian country lands in Utah. EPA has not approved the Ute Indian Tribe or the State of Utah to implement federal environmental programs in Indian country.

Climate Change

EPA appreciates the discussion of global climate change and greenhouse gas (GHG) emissions included in the DSEIS. However, we recommend that a discussion of potential means to mitigate project-related emissions be included in the Final EIS. The potential impacts of climate change on the proposed project should also be addressed, particularly if any potential impacts from the proposed action may be exacerbated by climate change. We recommend that the Final EIS discuss projected regional climate change impacts relevant to the action area, consider any future needs and capacity of the proposed action to adapt to projected climate change effects, and if appropriate, identify effects from the action that may be exacerbated by projected climate change.

Unstable Soils

EPA is pleased to see that the Preferred Alternative includes NSO protection for areas with identified geologic hazards, unstable soils, or steep slopes (>35%). However, we understand that access roads may still be constructed in the areas protected by this NSO stipulation. Dust particulates from construction and ongoing operations on roadways are important concerns. Airborne dust may not only be a visual nuisance, but can be potentially dangerous to asthma sufferers. Additionally, sedimentation run-off can severely impact the aquatic environment, and blowing dust may impact the flora and fauna of the area. The location of roads in unstable or nutrient enriched soils, or on steep slopes, increases the potential severity of dust and sedimentation impacts. Access roads should also be sited to avoid steep slopes, unstable soils and phosphorous enriched areas whenever possible. Impacts associated with access roads should be reduced to the maximum extent practicable, by utilizing transportation planning to establish proper road location and design, and using primitive two-track roads where possible.

U.S. Environmental Protection Agency Rating System for Draft Environmental Impact Statements

Definitions and Follow-Up Action*

Environmental Impact of the Action

LO - - Lack of Objections: The Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC - - Environmental Concerns: The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO - - Environmental Objections: The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU - - Environmentally Unsatisfactory: The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 - - Adequate: EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 - - Insufficient Information: The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new, reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 - - Inadequate: EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.